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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ATTACHMENT TO ADVISORY ACTION (paper no. 3)

Response to Arguments

Applicant's arguments filed December 19, 2008 have been fully considered but they are not persuasive.

In the paragraph bridging pages 6-7 of the subject response, applicant argues that:

"To begin, it is respectfully submitted that at the very least, the Final Office Action fails to present a prima facie case of anticipation against claims 1 and 9 based on Murran. A prima facie case of anticipation requires a showing as to how each and every element set forth in a claim is met by a single reference. In paragraph 3 of the Final Office Action, the anticipation rejection is supported by nothing more than a conclusory assertion that "Murran discloses a shaving apparatus with every structural limitation of the claimed invention including cooperating cutting members as shown in FIG. 3." In this regard, the anticipation rejections are invalid as a matter of law."

The Examiner respectfully disagrees with applicant's assertion. It is respectfully submitted that it appeared to be clear to the Examiner that the claims are broad and are clearly taught by Murran. The Examiner merely conveyed this point in the Office action and included at least one example of prior art structure that corresponds to the claimed invention. As stated in the 37 CFR (c)(2):

"In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as

practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified."

It is respectfully submitted that the Examiner does not consider the reference to be complex (i.e., with respect to shearing/cutting technology) and discloses/shows substantially only one invention. Further, the pertinence of the applied reference to Murran is believed to be clear. Thus, it is respectfully submitted that the Office action adequately conveyed the grounds of rejection. However, to address applicant's newly-raised concerns, a detailed description of how claim 1 is met by Murran is provided below.

Further, it is noted that if upon applicant's review of the Office action, the applicant did not feel that it was clear how Murran reads on the claimed invention and could not discern how Murran was being applied by the Examiner, it is respectfully submitted that applicant could have contacted the Examiner with any such questions.

Regarding claim 1, Murran discloses a device with every structural limitation of the claimed invention including:

two cooperating cutting members (e.g., 5, 6, 7; or on 5, 6, 7) that are movable relative to each other and that are each provided with cutting teeth (e.g., 16, 11, 9) that only partially overlap during operation of the shaving apparatus (e.g., as shown in Figs. 1 and 3, teeth 16 only partially overlap with teeth 9, 11) wherein edges of the cutting teeth cooperate and wherein a cutting opening is present between the cooperating edges of the cutting teeth for catching hairs (e.g., the openings are fully capable of catching any workpiece disposed therebetween, particularly elongated workpieces having the form of sticks or

strands), said cutting opening diverging when seen in a shaving direction of the apparatus, wherein a space remains between at least a portion of the cooperating edges such that the cutting openings are not entirely closed during operation of the apparatus (e.g., Murran meets this limitation in various ways; such as, referring to Fig. 3, when 16 is moved to the leftmost position, the cutting openings formed between the right edge 17 and the left edge of 9, 11 are wide open and thus the cutting openings are not entirely closed; when 16 is in the position shown, two cutting openings are open as shown and thus the cutting openings are not entirely closed; and when 16 is moved to the rightmost position, the cutting openings formed between the left edge 17 and the right edge of 9, 11 are wide open and thus the cutting openings are not entirely closed).

Claim 9 is met by the Murran in substantially the same manner.

In the second paragraph on page 7 of the subject response, applicant argues that:

"Notwithstanding the above, it is respectfully submitted that Murran does not and cannot support a prima facie case of anticipation against claims 1 and 9. Indeed, on a fundamental level, Murran discloses a hedge trimming apparatus for trimming bushes, and not a shaving apparatus for cutting hairs. Clearly, a hedge trimming apparatus as disclosed in Murran would not, and could not, be used as a shaving apparatus for cutting hair. This undisputed fact alone renders the anticipation rejections based on Murran legally deficient and improper as a matter of law."

It is respectfully submitted that applicant's argument is not understood. First, applicant has not explained how/in what way a hedge trimming apparatus structurally differs from

a shaving apparatus. Second, the Examiner's position is not that the device of Murran is used in the same manner as the present invention. Rather, the Examiner's position is that the device of Murran teaches or suggests all of the structure of the claimed invention. Further, it is not clear why the device disclosed by Murran could not be used to "shave" something, particularly some sort of hair or some sort of thing/animal or the like. Further, it is respectfully submitted that it is not clear as to what "matter of law" applicant is referring.

In the paragraph bridging pages 9-10 of the subject response, applicant argues that:

"Indeed, although the cutting member (6) of Murran is movable with regard to either cutting member (5) or (7), it is clear that the cutting teeth (16) of cutter (6) and cutting teeth (9) or (11) of respective plate member (5) or (7), are fully overlapped at some point during operation of the hedge trimmer. In particular, the teeth (16) are reciprocated such that at one point during operation, the teeth (16) are fully disposed in the pocket (13) between, and fully overlapped by, teeth (9)/(11). Thus, Murran does not disclose or suggest that the cutting teeth (of two cooperating cutting members) only partially overlap during operation of the shaving apparatus, as recited in claims 1 and 9."

It is respectfully submitted that applicant's argument is not understood. Clearly, due to the different geometries of cutting members 16 with respect to cutting members 9, 11, a "fully overlapped" condition is impossible. Thus, it is not clear how Murran would not meet this limitation.

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For at least the reasons described above, it is respectfully submitted that the prior art rejections must be maintained.

cfd

January 9, 2009